

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
2002 Biennial Regulatory Review – Review of the	)	MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and	)	
Other Rules Adopted Pursuant to Section 202 of	)	
the Telecommunications Act of 1996	)	
	)	
Cross-Ownership of Broadcast Stations and	)	MM Docket No. 01-235
Newspapers	)	
	)	
Rules and Policies Concerning	)	MM Docket No. 01-317
Multiple Ownership of Radio Broadcast	)	
Stations in Local Markets	)	
	)	
Definition of Radio Markets	)	MM Docket No. 00-244 ✓

**ORDER**

Adopted: December 30, 2002

Released: December 31, 2002

By the Chief, Media Bureau:

1. On September 12, 2002, the Commission adopted a Notice of Proposed Rulemaking (“*Notice*”),<sup>1</sup> which began this 2002 biennial review of its broadcast ownership rules. On November 25, 2002, the Network Affiliated Stations Alliance (“NASA”) and the National Association of Broadcasters (“NAB”) filed a Request for Collection of Data by the FCC asking the Commission to request certain data from the ABC, CBS, and NBC television networks in the above-captioned **proceeding**.<sup>2</sup> Specifically, the parties ask that the Commission request from these networks information regarding the amount of network programming preempted or otherwise not cleared by affiliates and network owned-and-operated stations in the top 25 markets in 2001 and 1991.<sup>3</sup> NASA and NAB assert that this information may assist them in addressing the issues raised in the *Notice* regarding the national television ownership rule.<sup>4</sup>

2. Although we expect and encourage the networks to submit data on all relevant issues raised in the *Notice*, we decline to compel production of the specific data identified by NASA and NAB. The scope of the questions asked in the *Notice* is broad enough to encompass the preemption information

<sup>1</sup> 2002 *Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996. Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets. Definition of Radio Markets*, 17 FCC Rcd 18503 (2002).

<sup>2</sup> NASA/NAB Request for Collection of Data by FCC (Nov. 25, 2002) (“NASA/NAB Request”).

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.*

sought.'

3. Moreover, even if the *Notice* had not already sought information regarding preemption, we would be concerned that grant of the NASA/NAB Request would unnecessarily delay this proceeding.<sup>6</sup> The *Notice* was released on September 23, 2002, and specified a 60-day comment period and 30-day reply comment period.' The Commission delayed the beginning of the filing periods until release of the Media Ownership Working Group studies,' on October 1, 2002.<sup>9</sup> The Bureau subsequently extended the filing deadlines to give parties an additional 30 days to file their comments and reply comments.'" Grant of the NASA/NAB request at this late date likely would result in an additional delay because of the time required for: (1) the Commission to formally request more specific data; (2) the networks' response; and (3) the public to analyze and comment upon the response.

4. Accordingly, because the *Notice* already seeks information regarding preemption, and in light of concerns that we not unnecessarily delay the proceeding, we conclude that the public interest would not be served by grant of NASA's and NAB's request. **IT IS ORDERED THAT the NASA/NAB Request IS DENIED.**

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree  
Chief, Media Bureau

<sup>5</sup> See *Notice*, 17 FCC Rcd at 18550-51, ¶¶ 149-53.

<sup>6</sup> Several parties have expressed similar concerns regarding delay in resolving the issues raised in the *Notice*. See, e.g., Opposition of the Newspaper Association of America to Further Request for Extension of Time (Dec. 16, 2002); Opposition of Media General, Inc. to Motion for Revision of Procedural Dates (Oct. 21, 2002).

<sup>7</sup> *Notice*, 17 FCC Rcd at 18555, ¶ 169

<sup>8</sup> *Id.*

<sup>9</sup> *FCC Seeks Comment on Ownership Studies Released by Media Ownership Working Group and Establishes Comment deadlines for 2002 Biennial Regulatory Review of Commission's Ownership Rules*, 17 FCC Rcd 19140 (2002).

<sup>10</sup> See *2002 Biennial Regulatory Review*, DA 02-2989, MB Docket No. 02-277 (rel. Nov. 5, 2002) ¶ 4